IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO. 26613 OF 2007

Dated : December 27, 2007

Between:

M/s. The India Cements Ltd.,
Vishnupura, Wadapally, Nalgonda District
Rep. by its Manager Accounts
Sri K.Varahala Raju

Petitioner

AND

Superintendent of Customs and Central Excise,
Miryalaguda Range, Church Road, Miryalaguda.

Respondent

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO. 26613 OF 2007

ORAL ORDER: **(per THE HON'BLE MRS. JUSTICE T.MEENA KUMARI)**

Seeking a writ of Mandamus declaring the

impugned notice dated 10.12.2007, issued by the respondent in Proceeding No.OC No. 1043/2007, as illegal, arbitrary and unjustified, the petitioner filed this writ petition.

The petitioner is a Public Limited Company and is an assessee on the rolls of the respondent, engaged in the manufacture and sale of cement. It is averred that the petitioner being a manufacturer of cement is entitled to CENVAT credit. In the process of manufacture of cement, the petitioner uses limestone as the principal raw material. It is submitted that in accordance with the provisions of Rule 57A of the CENVAT Credit Rules, 2002, the petitioner has availed the CENVAT credit on the inputs, but the Appellate Authority, while confirming the order of the Lower Authority has held that the petitioner is not entitled for Modvat Credit for the explosives used in the mines, which was also affirmed by the Tribunal by its order dated 9.8.2000. Hence, the present writ petition.

When this writ petition is taken up for hearing, it is submitted by the learned counsel for the petitioner that the issue involved in the instant writ petition is covered by the decisions rendered in C.E.R.C. Nos. 2, 3 and 4 of 2007 dated 26.12.2007, whereby the R.Cs. were already ordered in favour of the assessee.

Consequently, the writ petition is closed in terms of the order passed in C.E.R.C. Nos. 2, 3 and 4 of 2007

dated 26.12.2007. No order as to costs.

T.MEENA KUMARI, J.

G.ROHINI, J.

December 27, 2007
MAS